

cc: BOS 4/20/04
Acton Police Department

InterDepartmental Memo 7/12/05
6/14/04 - 13

From: Frank J. Widmayer, Chief of Police

Date: April 21, 2004

To: Don Johnson, Town Manager

Subj: Makaha Restaurant

I am now in receipt of two violations that were sent to the Board of Selectmen regarding the Makaha Restaurant. The first incident occurred on October 1, 2003 and was an Acton case. Since the Makaha was not mentioned in the report I was unaware until now that the incident was related to that establishment. A copy of the report is attached to this memo.

The second report dated January 30, 2004 occurred in another town. I am in the process of obtaining a copy of that report but at this point I do not even have the name of the police department that made the arrest. I will forward that report when it is available.



Frank J. Widmayer
Chief of Police



MARTHA COAKLEY
DISTRICT ATTORNEY

THE COMMONWEALTH OF MASSACHUSETTS
MIDDLESEX DISTRICT ATTORNEY
40 THORNDIKE STREET CAMBRIDGE, MA 02141

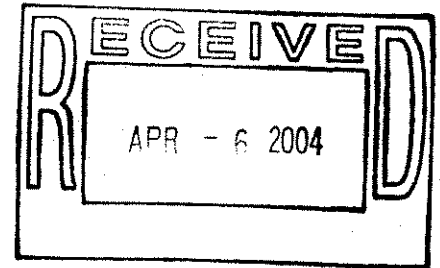
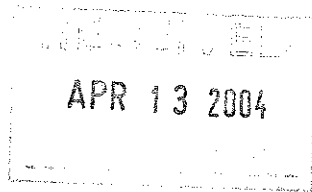
BOJ
FRANK WIDMAYER

103/7639

Tel: 617-679-6500
Fax: 617-225-0871

April 5, 2004

Board of Selectmen
472 Main Street
Acton, MA 01720



Dear Sir/Madam:

Please be informed that the Middlesex District Attorney's Office was notified pursuant to G.L. c. 90, § 24J, that Diane M. Houde informed the Concord District Court that, prior to committing a motor vehicle violation which involved driving under the influence of intoxicating liquors, she was served alcohol on 10/01/03 at the following establishment licensed to serve alcohol:

Makaha
255 Great Road
Acton, MA 01720

It is my belief that alcohol and substance abuse is a problem of major proportions in Middlesex. More specifically, the combination of such abuse and driving a motor vehicle is a threat to the lives and safety not only of the abuser, but also of the general public.

This letter is not meant to accuse the establishment of criminal or negligent conduct. The defendant's statement was not made under oath and may or may not be reliable. Nevertheless, because of the importance of the drunk driving issue, we bring this information to your attention for whatever action you may deem appropriate.

Very truly yours,

John McEvoy

John McEvoy
First Assistant District Attorney

**Acton Police Department
Incident Report**

April 20, 2004

Tuesday 11:17

Single Narrative

INCIDENT LOCAL # PRIORITY ACC REP	ACTIVITY ADDRESS (JURISDICTION) DISPOSITION	OFFICER(S)	RECEIVED DISPATCHED ARRIVED CLEARED	DISPATCHER SUPERVISOR NATURE INCIDENT TYPE																		
I0317639 9 No No	PATROL INITIATED MASSACHUSETTS AV Cross: SPRUCE ACTON, MA, 01720 (01) ARREST	KRUG	10/01/2003, 00:52 10/01/2003, 00:53 10/01/2003, 00:53 10/01/2003, 01:07	JOACHIM COGAN J MVS 6334XG M/V VIOLATION CT: JOACHIM																		
<p>Reported as: M/V VIOLATION Found as: M/V VIOLATION</p> <p>Domestic Abuse: No</p> <p>Dispatcher Remarks: 82SK STOPPED MA PC 6334XG AT THE ABOVE. 68GA ASSISTED. TRANSPORT OF 1, STARTING MILEAGE 54759, ENDING 54761.</p> <p>ARRESTED HOUDE, DIANE M License: [REDACTED] (MA) (Female) 65 WALNUT ST SSN: [REDACTED] M0304358 BERLIN MA 01503 Phone: None Recorded Race: WHI DOB: 07/21/1963 Age: 40 Commnt: ARRESTED: M/V VIOLATION</p> <p>Vehicles:</p> <table border="1"> <thead> <tr> <th>ID</th> <th>Sr</th> <th>Status</th> <th>Color</th> <th>Year</th> <th>Make</th> <th>Model</th> <th>Style</th> <th>VIN</th> </tr> </thead> <tbody> <tr> <td>V0300785</td> <td>AR</td> <td>No status</td> <td>Black</td> <td>1999</td> <td>Plymouth</td> <td>No model</td> <td>Sedan</td> <td></td> </tr> </tbody> </table> <p>Tag: MA 6334XG Person: 01 [REDACTED], DIANE M (ARRESTED)</p> <p>Narrative(s):</p> <p>Narr. 1: PTL. SCOTT KRUG Division: None Status: Open [I0317639] Title: REPORT Entered: PTL. SCOTT KRUG Date: 10/01/03 Reviewed: No officer Edit: 10/01/03</p> <p>ON THE ABOVE DATE AND TIME WHILE ON PATROL I WAS TRAVELING NORTH ON MAIN ST IN THE AREA OF KELLY RD. I OBSERVED A VEHICLE DISPLAYING MA REG 6334XG TRAVELING IN FRONT OF ME. THE OPERATOR OF THE VEHICLE WOULD HIT HER BRAKES AND PULL TO THE RIGHT AS ANOTHER VEHICLE PASSED HER TRAVELING SOUTH ON MAIN ST. WHEN THE VEHICLE REACHED THE INTERSECTION OF MAIN ST AND MASS AVE THE VEHICLE WAS IN THE LANE TO TRAVEL STRAIT ON MAIN ST. THE OPERATOR THEN JERKED THE VEHICLE INTO THE LEFT TURN LANE AND TRAVELED WEST ON MASS AVE. I FOLLOWED THE VEHICLE WEST ONTO MASS AVE. AS I FOLLOWED THE VEHICLE I CLOCKED THE OPERATOR FOR A HALF MILE IN THE AREA OF PROSPECT ST TRAVELING AT A SPEED OF 55 MPH IN A 30 MPH ZONE. THE VEHICLE WOULD WEAVE TOWARDS THE EDGE OF THE ROAD. THE OPERATOR WOULD JERK THE VEHICLE BACK TOWARDS THE CENTER OF THE ROAD CROSSING OVER THE CENTER LINE AND THEN DRIFTING BACK TOWARDS THE EDGE OF THE ROAD. AT THIS POINT I ACTIVATED MY BLUE LIGHTS TO STOP THE VEHICLE IN THE AREA OF DEACON HUNT RD. THE VEHICLE CONTINUED TRAVELING WEST ON MASS AVE AT 55 MPH WEAVING, CROSSING OVER THE CENTER LINE AND TRAVELING AT THE EDGE OF THE ROAD. THE OPERATOR CAME TO A STOP ON MASS AVE AT SPRUCE ST.</p>					ID	Sr	Status	Color	Year	Make	Model	Style	VIN	V0300785	AR	No status	Black	1999	Plymouth	No model	Sedan	
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Narrative 1 (continued) By: PTL. SCOTT KRUG

Incident I0317639

I APPROACHED THE OPERATOR OF THE VEHICLE AND REQUESTED FOR HER LICENSE AND REGISTRATION. I EXPLAINED TO THE OPERATOR NOW IDENTIFIED AS DIANE W HOUDE, THE REASON WHY I STOPPED HER. AT THIS POINT I COULD DETECT AN ODOR OF AN ALCOHOLIC BEVERAGE COMING FROM INSIDE THE VEHICLE. I ASKED MS HOUDE IF SHE HAD BEEN DRINKING TONIGHT, SHE STATED WITH A SLURRED SPEECH, "NO, I AM ON MEDICATION THAT IS WHY MY EYES ARE LIKE THIS". I THEN ASKED MS HOUDE WERE SHE WAS COMING FROM, SHE STATED "A FRIENDS HOUSE ON GREAT RD". I THEN ASKED HER WHY SHE WAS TRAVELING TOWARDS GREAT RD WHEN SHE WAS JUST COMING FROM THERE, SHE STATED "I AM DRIVING HOME TO BERLIN". I THEN ASKED MS HOUDE IF SHE WOULD CONSENT TO SOME FIELD TESTS, AND SHE COMPLIED.

I REQUESTED FOR MS HOUDE TO STATE THE ALPHABET FROM THE LETTER "C" TO THE LETTER "W". MS HOUDE SLURRED THE LETTERS AND HER SPEECH WAS SLOW. MS HOUDE STATED THE LETTERS UP TO "Y" AND THEN STATED "OH YOU WANTED ME TO STOP AT W". I THEN REQUESTED FOR MS HOUDE TO STEP FROM THE VEHICLE. WHEN SHE STEPPED FROM THE VEHICLE SHE WAS UNSTEADY ON HER FEET, AND HAD TO HOLD THE SIDE OF HER VEHICLE TO MAINTAIN HER BALANCE. I EXPLAINED AND DEMONSTRATED TO MS HOUDE THE NINE STEP FIELD TEST. DURING THE INSTRUCTION PHASE OF THE FIELD TEST MS HOUDE STOOD WITH HER RIGHT FOOT SIDWAYS WITH HER LEFT FOOT IN FRONT OF HER. I REQUESTED FOR MS HOUDE TO CORRECT HER FEET. WHEN MS HOUDE ATTEMPTED TO CORRECT HER FEET SHE LOST HER BALANCE AND STEPPED OFF THE ROAD. MS HOUDE THEN PLACED HER FEET IN THE SAME POSITION. AGAIN I REQUESTED FOR HER TO CORRECT HER FEET. MS HOUD BEGAN TO YELL AT ME STATING "I CAN'T DO THIS STOP CRITICIZING ME I DID NOT DO ANYTHING WRONG". MS HOUDE THEN STATED "OK I WILL DO THIS". MS HOUDE PLACED HER FEET BACK IN THE SAME POSITION. WHILE MS HOUDE PERFORMED THE FIELD TEST SHE DID NOT TOUCH HEEL TO TOE ON ANY OF THE STEPS. MS HOUDE WOULD TAKE A STEP AND THEN INCH THE FOOT THAT WAS IN THE BACK FORWARD AND THEN TAKE ANOTHER STEP. SHE WALK 15 STEPS OUT NOT COUNTING OUT LOUD. WHILE TAKING THESE 15 STEPS SHE RAISED HER ARMS TO MAINTAIN HER BALANCE AT SHOULDER LEVEL. I REQUESTED FOR MS HOUDE TO PLACE HER ARMS DOWN BY HER SIDE THREE TIMES AND SHE DID NOT. ON THE RETURN STEPS SHE WALKED 12 STEPS BACK IN THE SAME MANNER. MS HOUDE WOULD HAVE CONTINUED WALKING MORE THAN 12 STEPS IF I HAD NOT TOLD HER TO DISCONTINUE THIS FIELD TEST. I THEN EXPLAINED AND DEMONSTRATED THE ONE-LEG-STAND FIELD TEST. AS I WAS EXPLAINING THE FIELD TEST MS HOUDE STATED "I CAN'T DO THIS I HAVE BACK PROBLEMS". I DISCONTINUED THIS FIELD TEST. I THEN GAVE MS HOUDE THE NYSTAGMUS FIELD TEST. MS HOUDE EYES DID NOT MOVE WITH SMOOTHNESS AND HER EYES JERKED PRIOR TO MAXIMUM DEVIATION AND AT MAXIMUM DEVIATION.

IT WAS AT THIS POINT I FORMED THE OPINION MS HOUDE WAS INTOXICATED AND PLACED HER UNDER ARREST. OFFICER ABRAMOWITZ INVENTORIED THE VEHICLE WHILE I TRANSPORTED MS HOUDE BACK TO THE STATION. DURING THE TRANSPORT BACK TO THE STATION I COULD DETECT A STRONG ODOR OF ALCOHOLIC BEVERAGE COMING FROM THE REAR OF MY CRUISER WHERE MS HOUDE WAS LOCATED. UPON MY ARRIVAL AT THE STATION MS HOUDE BEGAN TO CRY. MS HOUDE STOOD IN THE CORNER OF THE BOOKING CAGE WITH HER FACE TOWARDS THE WALL. SGT COGAN ATTEMPTED TO GO THROUGH THE BOOKING PROCESS. WHILE SGT COGAN WAS GIVING MS HOUDE HER RIGHTS SHE COLLAPSED ONTO THE FLOOR CRYING. I WAS THEN INFORMED FROM SGT COGAN MS HOUDE [REDACTED] AND WAS REQUESTING FOR [REDACTED]. SGT COGAN CALLED FOR AN AMBULANCE AND SHE WAS TRANSPORTED TO EMERSON HOSPITAL. UPON MY ARRIVAL AT EMERSON

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Narrative 1 (continued) By: PTL. SCOTT KRUG

Incident I0317639

HOSPITAL THE STAFF HAD DIFFICULTY EVALUATING MS HOUDE. MS HOUDE BECAME COMBATIVE AT ONE POINT TOWARDS THE STAFF. [REDACTED]

[REDACTED] MS HOUDE STATED "I AM NOT A CRIMINAL FOR SELF MEDICATING MYSELF WITH ALCOHOL TO HELP MY PAIN". APROXITMATLY 15 MINUTES AFTER BEING AT THE HOSPITAL MS HOUDE BEGAN TO VOMIT. AFTER MS HOUDE VOMITED SHE STATED MEN SUCK I WANT THEM OUT OF THE ROOM. I WAS THEN INFORMED BY THE STAFF AT EMERSON HOSPITAL THEY WERE UNABLE TO DO AN EVALUATION OF MS HOUDE UNTIL SHE SOBERED UP.

AT 0800 HOURS MS HOUDE WAS RELEASED FROM EMERSON HOSPITAL. I TRANSPORTED HER BACK TO THE STATION WHERE DET COWAN COMPLETED THE BOOKING PROCEDURE.

MS HOUDE WAS CONSIDERED A REFUSAL OF THE BAC. I SEIZED MS HOUDE'S DRIVERS LICENSE AND SHE WAS GIVEN A TEMPORARY LICENSE. I WROTE MS HOUDE A CITATION (K4188051) FOR THE FOLLOWING:

90-24 OUI ALCOHOL
89-4A MARKED LANES VIOLATION
90-17 SPEEDING

OFFICER SCOTT KRUG #82
ACTON POLICE